AT&T notes that in recent state UNE proceedings and federal 271 proceedings and in universal service cost model proceedings, ILECs have begun to argue that existing and new switching software has a significant impact on switching costs. The only way to determine whether these claims are legitimate, and to assess the impact of those costs on UNE rates and the universal service mechanism, is to require ILECs to maintain that information separately. Judging by ILEC arguments in ILEC 271 proceedings, ILECs already maintain such information, so it should not be unduly burdensome.[78] BellSouth states that it maintains separate subsidiary records for general purpose and network software.[79] Thus, reporting this information in a separate account should not be cost prohibitive.

3 Loop And Interoffice Transport

Contract prices and model algorithms are inputs needed to determine compliance with TELRIC pricing standards To the extent ILECs claim that UNE rates do not cover accounting costs, data separating loop costs from transport costs is needed to make comparisons to accounting costs Additionally, if separate wholesale and retail companies are created, separate data for loop versus transport costs may be needed to develop transfer prices [80]

4 Interconnection Revenue (with subaccounts UNEs, Resale, Reciprocal Compensation, and Other Interconnection Arrangements)

Sources of revenue appear to be one of the more important components necessary to monitor the transition to a competitive marketplace. This data will be of value in assessing how the interconnection processes further the development of local competition. For example, if such revenues are minimal, it could mean that UNE rates are too high. If such revenues remain minimal it could mean that the interconnection regime is not a fertile area for local competition and that state resources need to be deployed in other pro-competitive areas. Other data sources are inadequate (e.g., data requests in the FCC's local competition proceeding), because accounting data is still the only audited data and, in any case, is essential to understanding the extent of the activity. The FCC reasoned that such accounts are unnecessary in light of existing requirements that perform the same or similar function.

With respect to interconnection-related expenses, the FCC chose to rely on the statutorily created obligations on ILECs under sections 251 and 252 to document these costs.[81] However, considering those created obligations are the subject of review and possible termination in FCC WC Docket 02-112,[82] it is more imperative that new accounts be established to assure this data is maintained.

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[78] *AT&T Comments* at 16

[79] *BellSouth Comments* at 20

[80] *Wisconsin Comments* at 12

[81] 47 U S C §§ 251 and 252

[82] *In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, WC Docket No 02-112

Form 477[83] data is not adequate The FCC Form 477 does not include any interconnection revenue or expense data. While some data relates to local competition (e.g., number of UNE loops), none of the data is audited, calling the reliability of the data into question The Form 477 does not collect comprehensive data on all interconnection activities (e.g., the only UNE data collected on Form 477 is UNE loop data and there are many other types of UNEs offered). Accounting data is essential to understand the nature of the competition (e.g., is it healthy, is there resale activity and at what level). Form 477 data is confidential, resulting in delays for states in obtaining access to the data and making other state's data unobtainable. Further, given its confidentiality, it will be difficult for states to use the data in a hearing or publicly issued decisions.

As universal service funds expand in order to make implicit subsidies explicit in nature, information in this area is likely to increase in importance.[84] Revenue flow is highly CLEC to ILEC in nature. It is less likely that an ILEC will buy unbundled access to a CLEC's network or will resell a CLEC's services. Additionally, an ILEC is not likely to collocate in a CLEC's central office. Interconnection accounts would assist states in assessing local competition and whether such competition is getting a foothold in their states. This data could prove useful to states in formulating policy. The addition of these accounts would clearly help the states and the FCC better understand the degree of local competition and enable regulators to take steps to address issues that may be relevant to the state of local competition.

The current USOA appears to support classification of interconnection expenses in Account 6540, Access Expense. Reciprocal compensation is an expense associated with local service, whereas access expenses are related to long distance service A separate account or subaccount is needed for an ILEC's reciprocal compensation paid to other entities. As noted by NASUCA, in Ohio, the carrier that is the recipient of the greatest amount of federal high cost universal service support currently includes that amount in Account 5082, Switched Access Revenue. This account is allocated entirely to the interstate jurisdiction, despite the fact that the purpose of this support is to keep local rates low. This particular carrier's local rates are among the highest in the state.[85]

ILEC arguments concerning the availability of data are overstated. BellSouth states that interconnection revenues are identifiable within its accounting system and are routinely provided to state commissions in regulatory proceedings. The revenues are journalized to the revenue accounts corresponding to the services being sold but they can be identified through underlying accounting codes. BellSouth asserts that to record resale revenues in one account would require reprogramming of accounting systems and also require changes to Part 36[86] separations process and procedures According to BellSouth, UNE and local reciprocal compensation revenues are currently recorded as miscellaneous revenue in Account 5200 and are separately identifiable.

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[83] FCC Form 477 – Local Competition and Broadband Reporting.

[84] *Wisconsin Comments* at 12

[85] *NASUCA Comments* at 15

[86] 47 C F R Part 36

Because these revenues can be ascertained through its current accounting systems, BellSouth argues there is no need to require new accounts that would be costly to implement and would provide no discernable benefit [87] However, this information is not publicly filed and therefore not accessible to interested parties such as consumer advocates [88]

5. Universal Service Support

New USF accounts are needed to understand the federal USF programs and the effect these programs have on consumers because data of ILEC USF costs from FCC Form 499A[89] is inadequate. With no specific accounts assigned, USF revenue and expenses will be included in other accounts (such as access revenue and expense) where they will distort the data. Furthermore, Form 499A does not require reporting on a state basis, rather such data is filed by operating company For multi-state companies (such as Verizon, SBC, BellSouth) the data is not available by individual state While having both interstate and intrastate USF accounts would provide the most usefulness to state regulators, the Joint Conference recognizes the difficulties that could be encountered with differences in state USF support mechanisms and reporting procedures Therefore, at this time, the Joint Conference will limit its recommendation to establishing accounting requirements for the federal USF program only. The effect on carriers will be minimal, and the information will provide valuable information in assessing the workings of the federal USF.

V. AFFILIATE TRANSACTIONS REQUIREMENTS

A Elimination Of The Requirement For Fair Market Value Comparison For Asset Transfers Below $500.000

Issue: Should the FCC reverse its decision to eliminate the requirement for a comparison between net book cost and fair market value for the first $500,000 of asset transfers?

Recommendation: No. The Joint Conference recommends that the FCC affirm its decision as announced in the *Phase II Report and Order*.

The Phase II decision eliminated the requirement that carriers make a fair market value comparison for assets when the value of assets transferred is below $500,000.[90] By eliminating this requirement, carriers will no longer be required to perform a net book cost/fair market value comparison for the first $500,000 of asset transfers. Rather the asset will be recorded at net book cost Previously, a comparison was performed on a product-by-product basis, per year, per affiliate. In the *Phase II Report and Order*, the FCC defended this change by noting that it

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[87] *BellSouth Comments* at 17-18

[88] Reply Comments of the National Association of State Utility Consumer Advocates, WC Docket No. 02-269, filed January 29, 2003, (*NASUCA Reply Comments*) at 4

[89] FCC Form 499A – Telecommunications Reporting Worksheet

[90] *Phase II Report and Order* at para. 90

would promote symmetry with the current treatment of transactions involving services, effectively eliminating any incentive for companies to turn "assets" into "services."[91]

This change did not garner any opposition from interested parties in response to the *Joint Conference Public Notice*.[92] In support, ILECs contend the change is inconsequential.[93] BellSouth noted that, from January to October 2002, asset transfers that fell within the parameters of the rule as revised totaled $1.3 million That total equates to approximately 4% of all asset transfers, and 0 005% of BellSouth's net fixed assets.[94]

The Wisconsin Commission specifically supports the change as set forth in the *Phase II Report and Order*, agreeing that the treatment of services and assets should be symmetrical for such small transactions.[95]

B. Establishment Of Floor And Ceiling For Recording Transactions

Issue: Should the Commission reverse its decision to allow ILEC discretion in valuing affiliate transactions as long as the valuation complies with a prescribed floor or ceiling?

Recommendation: Yes. The Joint Conference recommends that the FCC reverse its decision to permit ILECs to have such discretion in valuing affiliate transactions.

In its *Phase II Report and Order*, the FCC revised its affiliate transaction rules to permit carriers to use the higher or lower of cost or market valuation as either a floor or ceiling when valuing transactions.[96] Prior to this change, where a carrier was the recipient of an asset or service, that asset or service was required to be recorded on the carrier's books at the lower of cost[97] or fair market value (FMV). If the carrier provided the asset or service, the carrier valued the transferred asset or service at the higher of cost (FDC or NBC) or market value. The change approved in the *Phase II Report and Order* allows carriers to assign whatever value they deem appropriate for a transaction, as long as the value falls within the parameters of the adopted floor and ceiling. The effect of this rule change is to allow carriers greater flexibility in valuing these transactions [98]

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[91] *Id*

[92] *See, Joint Conference Public Notice*

[93] *See, BellSouth Comments* at pp 13-14, *Verizon Comments*, Appendix at p 1

[94] *BellSouth Comments* at 13.

[95] *Wisconsin Comments* at 12

[96] *Phase II Report and Order*, paras 91-92.

[97] Generally, "cost" is the fully distributed cost (FDC) when valuing services and the net book cost (NBC) when valuing assets

[98] The FCC offered the following example. If an ILEC were buying an asset with a NBC of $750,000, and a FMV of $1,000,000, the rules prior to the *Phase II Order* required the ILEC to record the asset at $750,000, which is the lower of cost or market The change adopted by the FCC permits the carrier to record the asset, purchased from one of its non-regulated affiliates, at any valuation up to the ceiling of $750,000 (the lower of NBC and FMV). Arguably, the ILEC could choose to record the transaction at a value of $0 *See, Phase II Report and Order*, n 172

In its *Phase II Report and Order*, the FCC concluded that this change "would not harm ratepayers because it would permit the regulated carrier to either pay less or charge more to the nonregulated affiliate for the service or asset."[99] While acknowledging that the change could "potentially have an anti-competitive effect," the Commission found this possibility unlikely, "particularly if the transaction is *de minimus* and is not priced below incremental cost.[100]

As the FCC recognized, allowing a carrier the flexibility of choosing a valuation that falls within the parameters of a floor and ceiling opens the door to anti-competitive behavior.[101] It allows the ILEC to record a purchased asset or service at a very low value when, had the purchase been made in the open marketplace, the price would have been considerably higher. Such an under-valuation could result in prices that are artificially low and are not cost based. A competitor could not arbitrarily choose the value to be recorded for a similar purchase and would therefore be at a competitive disadvantage due to the ILEC's lower prices. In addition, the discretion afforded by the rule would permit ILECs to value assets or services they purchase from a nonregulated affiliate at levels much lower than true cost or market value. The rule, as adopted, applies to all transactions, not just small ones, and confers on the ILEC the discretion to choose any price that is below the ceiling, without consideration being given to the incremental cost. Conversely, a carrier could record an exaggerated price for the sale of an asset or service, which in turn would permit an ILEC to value assets or services sold at levels much higher than the true cost or market value.

ILECs have argued that the new provisions for establishing floors and ceilings in valuing assets and services affords them appropriate flexibility to avoid calculating all the elements of fully distributed cost and to avoid estimating fair market value.[102] However, allowing this type of flexibility permits too much discretion in the valuing of affiliate transaction by an ILEC. A comparison with cost or fair market value should remain the touchstone of valuing these transactions. The unfettered discretion afforded by the newly approved floor and ceiling provisions of the Commission's rules provides unrestrained opportunities for manipulation of costs, revenues, and earnings – precisely the type of problems that gave rise to this Joint Conference.

C Prevailing Price Treatment Threshold

Issue: Should the FCC reverse its decision in the *Phase II Report and Order* and return the threshold required to qualify for prevailing price valuation of affiliate transactions to 50 percent of sales of a particular asset or service to third parties?

Recommendation: Yes. The threshold should be returned to 50 percent.

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[99] *Id* at para 92

[100] *Id*

[101] *Id*

[102] *BellSouth Comments* at pp 14-16, *Verizon Comments*, Appendix, p 1

Prevailing price valuation permits ILECs to value sales of assets and services without establishing the cost or fair market value, but rather based solely on the price of that asset or service when sold to the general public (*i.e.*, a non-affiliated third party). Adopting a USTA proposal, the *Phase II Report and Order* reduced the threshold to qualify for prevailing price valuation from 50 percent to 25 percent of sales of a particular asset or service to third parties. The FCC explained that the purpose of the threshold is to ensure that sufficient transactions take place with the general public, as opposed to merely with the affiliate, to "produce a reasonable surrogate of a true market price."[103] The FCC concluded that it would unlikely be "a sustainable strategy for a firm significantly to under-price transactions with 25 percent of its customers in order to be able to record transactions at this price with an affiliate."[104]

The *Phase II Report and Order* reflects the assumption that there are no situations in which an ILEC would under-price 25% of the sales of a good or service to third parties in order to gain the benefit of below cost pricing to affiliates for the remaining 75% of sales of that good or service. However, it is not uncommon for parties in commercial relationships to exchange mutual concessions in the sales of goods and services.

For example, ILECs frequently enter into partnership agreements and other contractual relationships with nonaffiliated third parties (*e.g.*, SBC partners with Yahoo for Internet access service) in which it could be advantageous for the ILEC to provide an asset or service to the third party at a favorable, below cost price. The ILEC may receive a similar concession on a product or service provided by the third party. In such a situation, an ILEC could strategically under-price a relatively small amount of a particular service or asset to gain an offsetting concession from the third party, and at the same time confer on its affiliate a competitive advantage. By under-pricing services or assets, the ILEC would be absorbing some of the cost and thereby lowering the affiliate's overall cost structure, to the overall benefit of the ILEC's holding company.

Additionally, ILECs could use this new discretion to offset higher-than-desired earnings at the regulated entity. This would be an advantageous strategy whenever an ILEC believes it would benefit from making its regulated earnings appear as low as possible, such as when it is pursuing a takings claim, seeking regulatory relief based on allegedly depressed earnings, or is subject to a profit-sharing requirement.

D. Modification Of The Centralized Services Exception To The Estimated Fair Market Value Rule

Issue: Should the FCC eliminate the centralized services exemption to the affiliate transactions rules?

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[103] *Phase II Report and Order* at para. 94.

[104] *Id.*

Recommendation: Yes. The FCC should eliminate the centralized services exception to the affiliate transactions rules, thereby making such transactions subject to the general rule requiring fair market value analysis

In a 1996 decision, the FCC created an exception to the valuation rules, for transactions involving affiliates that provide services solely to members of the corporate family.[105] The exception, called the centralized services exception, permits carriers to value services provided by such centralized services affiliates at fully distributed cost without demonstrating that this cost is below fair market value In the *Phase II Notice*, at the behest of USTA, the FCC asked whether it should expand the centralized services exception to either apply on an individual service basis (i.e., when an affiliate provides a variety of services to both family members and third parties, but provides one particular service just to family members) or to apply to entities that exist primarily to serve members of the carrier's corporate family (i.e., most, but not all, of the affiliate services are provided to family members) . The FCC declined to expand the exception in the *Phase II Report and Order* [106]

The *Phase II Report and Order* rejected the proposed expansion of the centralized services exception because of the risk that the affiliate would improperly shift costs to the regulated carrier [107] The FCC identified a variety of reasons why cost shifting from affiliates to regulated entities would be potentially harmful to ratepayers and beneficial to ILECs.[108]

There were no ILEC petitions for reconsideration or requests to reverse the Phase II decision with respect to this issue. The Phase II decision's analysis on this issue is sound.

The discussion of the centralized services exception in the *Phase II Report and Order* raises the larger issue of the appropriateness of the exception at all. The centralized services exception requires the regulated carrier to record fully distributed cost as the cost of any service the carrier receives from the centralized services affiliate, without making any determination that the fully distributed cost is less than the fair market value of the services. As noted above, the general rule for recording the cost of an asset the carrier receives from its affiliate is that it must be recorded at the lower of market or book value. In its 1996 decision creating the centralized services exception, the FCC stated that the services provided by the centralized services affiliate might in many instances be unique and not readily capable of determining an accurate fair market value. The FCC also opined that centralized services affiliates are created to enable corporate families to obtain economies of scale and scope and that fair market valuations would increase costs with little accompanying benefit.[109] The FCC did not consider this issue during the Phase 2 proceedings.

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[105] *Re Implementation of the Telecommunication Act of 1996 Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No 96-150, Report and Order, 11 FCC Rcd. 17,539, FCC 96-490 (rel December 23, 1996) (*Accounting Safeguards Order*)

[106] *Phase II Report and Order* at para 98.

[107] *Accounting Safeguards Order* at para 98.

[108] *Id* at para 99

[109] *Id.* at para 148

The Commission's 1996 decision creating the exception should be revisited in light of the concerns raised by the accounting scandals of recent years. The exception confers on the carrier and its holding company the opportunity to have the carrier pay in excess of market prices for services obtained from an affiliate The corporate family is not harmed by such overpayments as the holding company is unaffected by intra-holding company transfers. However, the regulated carrier may find it advantageous to show artificially high costs and, as a result, depressed earnings One of the goals of the Joint Conference is to limit opportunities for carriers to manipulate their financial statements. Eliminating the exception will further this goal.

In addition, regulated carriers that record excessive costs for services from an affiliate can use those costs to justify excessive wholesale or retail rates Affiliate transaction rules should not permit carriers to use transactions with affiliates to justify artificially high costs that are then passed on to competitors or end users buying services for which the ILEC retains market power The *Accounting Safeguards Order* does not explain why a carrier with market power would not have the opportunity to take advantage of the exception to justify unduly high wholesale or retail prices

E Exemption Of Nonregulated To Nonregulated Transactions From The Affiliate Transactions Rules

Issue: Should the FCC continue to defer action on whether nonregulated to nonregulated transactions should be exempted from the affiliate transactions rules?

Recommendation: Yes The Joint Conference recommends that the FCC maintain the current reporting requirements for nonregulated to nonregulated affiliate transactions and take no additional action at this time.

Under current rules, when a carrier sells an asset used exclusively in its nonregulated operations to its nonregulated affiliate, the asset must be valued according to the affiliate transactions rules. In the *Phase II Notice*, the FCC asked whether nonregulated to nonregulated transactions should continue to be exempt from the affiliate transactions rules. The FCC deferred action on the proposal, "as it raises broader issues that should be considered in a more comprehensive fashion."[110]

With the increased re-integration into BOCs of affiliates that have previously been separate affiliates (e.g., long distance, advanced services), retention of this rule is necessary to prevent manipulation of costs and revenues associated with affiliate transactions. Such manipulation could be used to distort the overall financial results of regulated carriers, a concern that gave rise to this Joint Conference.

[110] *Phase II Report and Order* at para. 100

F Intra-Holding Company ILEC To ILEC Transfers Of Assets Or Services

Issue Should the FCC apply its affiliate transaction rules to transactions between ILECs within the same holding company?

Recommendation: Yes The FCC should clarify that its affiliate transaction rules are equally applicable to transactions between ILECs within the same holding company.

In its comments to the *Joint Conference Public Notice*, AT&T raised the following issue that was not addressed in the *Phase II Report and Order* – whether affiliate transaction rules should apply to transactions between ILECs within the same holding company, e.g., between Verizon-New York and Verizon-New Jersey or SBC's ILEC in Texas (formerly Southwestern Bell Telephone Company) and SBC's ILEC in California (formerly Pacific Bell).[111]

Inapplicability of transfer pricing rules affords an opportunity for ILECs to manipulate their costs, revenue, and earnings in a manner that could lead to inflated wholesale or retail rates or inaccurate reports of earnings by the ILECs. For example, suppose SWBT decides to purchase accounting support services from PacBell If PacBell sets the price for these services at an inflated level, SWBT would then record the inflated rate as an expense, and PacBell would record the inflated rate as revenue. By merely shifting costs and revenues from "one pocket to the other," the parent company is not harmed by the activity. However, SBC (in this example) can use this loophole to overstate expenses Overstated expenses can become the basis of cost studies used to set wholesale or retail prices, thereby causing inflated prices to consumers.

The opportunity for cost manipulation could permit a holding company to artificially manipulate earnings among its ILECs as a means of gaming different regulatory issues in different states. For example, if higher earnings in state X would cause more adverse consequences than similar earnings in state Y, the holding company could use affiliate dealings between its ILECs to artificially depress earnings in state X and artificially increase them in state Y. With the large ILEC mergers in recent years (e g. SBC/Pacific Telesis, SBC/Ameritech, Bell Atlantic/GTE), there is increased opportunity for ILEC to ILEC transactions within a holding company

Due to the potential asymmetry between fair market value and net book cost/fully distributed cost during a transaction between two ILECs within the same holding company, only one pricing standard can apply. The FCC should clarify that the fully distributed cost/net book value standard applies to transactions between two ILECs.

G. Affiliate Transactions And Section 272

Issue: Should the FCC impose other requirements and accounting safeguards following the elimination of the affiliate and nondiscriminatory requirements of section 272?

[111] *AT&T Comments* at 20

Recommendation. Yes. Following sunset of the structural separation requirements of section 272, the Joint Conference recommends that the BOC be required to maintain separate books of account for the provision of interexchange service and maintain an affiliate that provides in-region interexchange service that is subject not only to accounting review but also to certain safeguards

The purpose of the separate affiliate and nondiscrimination requirements in section 272 is to lessen the ability of a BOC to discriminate and/or misallocate costs to the advantage of its own operations, and to make it easier to detect any such behavior. Section 272 (a) of the Act requires BOCs to provide in-region, interLATA telecommunications services through separate corporate affiliates, subject to certain safeguards [112] Section 272 (b) requires that the separate affiliates maintain separate books of account and have separate officers and directors and that all transactions between the section 272 affiliate and the BOC be on an arm's length basis, pursuant to the Commission's affiliate transaction rules [113] Sections 272 (c) and (e) impose nondiscrimination safeguards on the BOC and require that all transactions with the affiliate be accounted in accordance with the accounting rules designated or approved by the Commission.[114] Section 272 (d) requires the BOC to obtain and pay for a biennial joint federal/state audit after section 271 approval to determine compliance with the structural and transactional requirements of section 272 [115] Section 272(f)(1) provides that the provisions of the section, except for section 272(e), expire three years after a BOC or any BOC affiliate is authorized under section 271 to provide in-region, interLATA services, "unless the Commission extends such 3-year period by rule or order "[116]

In the *Accounting Safeguards Order* and the *Non-Accounting Safeguards Order*, the Commission adopted rules to implement the statutory requirements of section 272.[117] In the *Non-Accounting Safeguards Order*, the Commission concluded that as long as the BOCs retain market power in the provision of local exchange and exchange access services within their service areas, they have an incentive and ability to discriminate against their long distance competitors, and engage in other anti-competitive conduct. The Commission found the BOCs to be dominant carriers with an incentive to discriminate in providing services and facilities that their interexchange competitors need to compete in the interLATA services markets.[118]

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[112] 47 U S C § 272(a)(2)

[113] 47 C F R § 32.27 Under the affiliate transaction rules, transactions are to be valued at publicly available rates - specifically, a tariffed rate, a rate in a publicly filed agreement or statement of generally available terms, or a qualifying prevailing price valuation - if possible If there is no such publicly available rate, transfers from the BOC to the affiliate are booked at fair market value or net book cost, whichever is higher. Transfers from the affiliate to the BOC are recorded at fair market value or net book cost, whichever is lower. The BOC may use any reasonable method to determine fair market value, an independent appraisal is not required

[114] 47 C.F R. § 32 27

[115] 47 U S C § 272 (d) *Accounting Safeguards Order* at paras. 184-204.

[116] 47 U S C § 272(f)(1).

[117] *See, Accounting Safeguards Order* and *Non-Accounting Safeguards Order*

[118] *Non-Accounting Safeguards Order* at para. 85

Additionally, the *Non-Accounting Safeguards Order* found that the separate affiliate and related requirements of section 272 are "designed, in the absence of full competition in the local exchange marketplace, to prohibit anticompetitive discrimination and cost-shifting "[119]

In the *LEC Classification Order*, the Commission concluded that the BOC interLATA affiliates should be classified as non-dominant in their provision of in-region, interstate and international interLATA services The decision was predicated on the presence of a section 272 separate affiliate and full compliance with the structural, transactional, and nondiscrimination requirements of section 272 and the Commission's implementing rules.[120] The Commission determined that some level of separation between an ILEC's interstate long distance service operations and its local exchange operations was necessary to guard against cost misallocation, unlawful discrimination, or a price squeeze [121] The Commission therefore required independent ILECs to provide their in-region, interstate and international interexchange services through separate affiliates that satisfy the separation requirements adopted in the *Competitive Carrier Fifth Report and Order* [122] In the *Second Reconsideration Order*, however, the Commission relaxed these requirements for independent ILECs providing in-region, interstate and international interexchange services exclusively through resale, by allowing them to do so through a separate corporate division subject to certain safeguards.[123] The *LEC Classification Order* also eliminated the separate affiliate requirements imposed on BOCs and independent ILECs as a condition for non-dominant treatment of their provision of out-of-region, interstate interexchange services [124]

The Commission currently has an open proceeding which inquires whether the separate affiliate and related safeguards of section 272 should sunset as provided in the statute or be extended by the Commission.[125] The *272 Sunset Notice* also inquires on a range of possible alternative safeguards for BOC provision of in-region, interLATA services after the sunsetting of the statutory requirements under section 272. The FCC's *272 Sunset Further Notice* inquires into the appropriate classification of BOCs' and independent ILECs' provision of in-region, interstate and international interexchange telecommunications services.[126]

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[119] *Id* at para 9

[120] *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, CC Docket No 96-149, Second Report and Order, 12 FCC Rcd 15756, paras. 83, 158-61 (1997) (*LEC Classification Order*)

[121] *Id* at para 143

[122] *Id* at para 7

[123] *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket Nos 96-149 and 99-61, Second Reconsideration Order, 12 FCC Rcd at 10,777, para. 9 (Second Reconsideration Order). ILEC resellers still must maintain separate books of account, comply with affiliate transaction rules, and acquire any services from the exchange company pursuant to tariff.

[124] *LEC Classification Order* at para 9

[125] *In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, WC Docket No 02-112, Notice of Proposed Rulemaking, FCC 02-148, (rel May 24, 2002) (*272 Sunset Notice*)

[126] *See In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64 1903 of the Commission's Rules*, WC

The section 272 safeguards are designed to reveal and discourage BOC subsidization of their long-distance affiliates by recovering the affiliates' costs from local and exchange access customers. The 272 structural affiliate requirement is a mechanism to control cost shifting in the form of misallocation of joint and common costs by forbidding joint operations and joint marketing. The Commission noted in the *272 Sunset Notice* that maintaining a separate affiliate creates a more transparent record of transactions between the BOC and its affiliate, thereby facilitating detection of discriminatory behavior.[127] In the absence of those safeguards, the possibility of cross-subsidization is heightened.[128] The Commission found in the *Accounting Safeguards Order* that as long as the BOC, through its control of bottleneck facilities, has dominance over local exchange and exchange access service, there is an incentive for cross-subsidization [129] Moreover, the Commission made clear in the *LEC Classification Order* that its existing non-dominant treatment of the BOC long-distance affiliates was "predicated" on the existence of section 272 [130]

In the *Accounting Safeguards Order*, the Commission relied extensively on the existence of the structural safeguards, audit requirements and affiliate transaction requirements of section 272 to support its finding that there are sufficient safeguards to prevent the BOCs from eliminating competing IXCs by engaging in improper cost misallocation.[131] When the 272 structural affiliate requirements and nondiscriminatory safeguards are eliminated, the separate structural requirement will dissolve. The integration of the BOC's local operations with its interLATA activities will increase the risks of cost shifting. For example, an ILEC could use profits from vertical features such as call waiting, call forwarding, and caller ID to subsidize low long-distance rates. Without safeguards, the BOC could subsidize its more competitive long distance services by over-pricing local services.

In the *Competitive Carrier Fifth Report and Order*, the Commission concluded that independent ILEC provision of interstate, domestic, interexchange services is subject to non-dominant treatment if such services are offered through an affiliate that meets certain requirements.[132] While the separation requirements do not require actual structural separation, the affiliate must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the exchange telephone company; and (3) obtain any exchange telephone company services at tariffed rates and conditions.[133] Except for the ban on joint

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Docket No 02-112 and CC Docket No 00-175, Further Notice of Proposed Rulemaking, (rel May 19, 2003) (*Further 272 Sunset Notice)*

[127] *272 Sunset Notice* at para 22

[128] *In the Matter of Extension of Section 272 Obligations of Southwestern Bell Telephone Co In the State of Texas*, WC Docket No. 02-112, Petition of AT&T Corp at 8-9.

[129] *Accounting Safeguards Order* at para 14

[130] *LEC Classification Order* at para 82

[131] *Accounting Safeguards Order* at paras 59-60

[132] *Competitive Carrier Fifth Report and Order* at para 9

[133] *Id* The Commission concluded that any interstate, interexchange services offered directly by an ILEC or

ownership of transmission and switching facilities, the independent ILEC and the interexchange affiliate can share personnel and other resources or assets. Thus these separation requirements are less extensive than the structural separation requirements of section 272.

To guard against possible cross-subsidization and improper cost allocation, safeguards are needed when section 272 obligations sunset. The Joint Conference recommends that the BOCs' provision of in-region long distance services that are no longer subject to section 272 affiliate requirements should be subject to certain safeguards. The Joint Conference recommends the Commission:

1. Require BOCs to establish an affiliate for the provision of interexchange services that follows, at a minimum, the requirements set forth in Part 64.1901-1903 of the Commission's rules for independent ILECs. These less stringent structural separation requirements will enable regulators to monitor the effect of transactions after release from the section 272 obligations

2. Retain biennial audit requirements. A federal/state joint biennial audit should be required to enable regulators to detect cross-subsidization or discriminatory behavior.

VI REPORTING REQUIREMENTS AND OTHER ISSUES

A Collection Of Local Loop Facilities Data As Loop Sheath Kilometers

Issue: Should the FCC reverse its decision to require the collection of Local Loop Facilities data as Loop Sheath Kilometers?

Recommendation: The Joint Conference takes no position on the addition of loop sheath kilometers to ARMIS Report 43-07. However, if the requirement is retained, the FCC should also retain the existing "Sheath Kilometer" reporting requirement for some period of time.

Total Sheath Kilometer information is useful as it identifies the infrastructure for loop and interoffice, combined, for a particular ILEC. In the *Phase II Report and Order*, the Commission found.

> In the first section of Table II, "Sheath Kilometers," carriers report data on transmission facilities within their operating areas. Carriers use either analog or digital technology on copper wire, coaxial cable, fiber, radio, and other media. In the Notice, the Commission proposed to change the title "Sheath Kilometers" to "Loop Sheath Kilometers" to narrow the collection of data to only local loop facilities connecting customers to their serving offices.[134]

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through an affiliate that did not satisfy the separate affiliate requirements specified in the *Competitive Carrier Fifth Report and Order*, would be subject to dominant carrier regulation The Commission also proposed to regulate any future provision of interLATA services by the BOCs as dominant, until the Commission determined what degree of separation, if any, would be necessary for the BOCs or their affiliates to qualify for non-dominant regulation.

[134] *Phase II Report and Order* at para 170.

The stated rationale for the change appears to be that the FCC "conclude[d] that this information would be more useful for policymakers and interested parties if it were narrowed to local loop facilities connecting customers to their service offices. Therefore, we now change the title to "Loop Sheath Kilometers" and limit the collection of data to local loop facilities."

B Broadband Infrastructure Reporting

Issue: Should the FCC reconsider its Phase II decision regarding broadband infrastructure reporting?

Recommendation: No. The Joint Conference recommends the FCC deny the *Joint Petition for Reconsideration* regarding the reporting of broadband infrastructure data in ARMIS Report 43-07. Notwithstanding this, the reporting of broadband infrastructure data should continue to be evaluated as to whether the data collection should be expanded to a larger universe of carriers.

ARMIS is an automated reporting system developed by the FCC to collect financial, operating, service quality, and network infrastructure information that ILECs are required to collect under FCC rules. Specifically, ARMIS Report 43-07 (Infrastructure Report) collects information about the physical and operating characteristics of the ILECs.[135] ARMIS Report 43-07 collects data about the carrier's switching and transmission equipment, call set up time, and cost of total plant in service. This report is filed on a study area and holding company level. The report captures trends in telephone industry infrastructure development under price cap regulation. Policymakers at the federal and state levels use this information, which is critical data not available through other public sources.

In the *Phase II Notice*, the FCC sought comment on adding information on hybrid fiber-copper loop interface locations, number of customers served from these interface locations, xDSL customer terminations associated with hybrid fiber-copper loops, and xDSL customer terminations associated with non-hybrid loops to the ARMIS Report 43-07.[136] The *Phase II Report and Order* concluded that the addition of this information to ARMIS would help to "satisfy an immediate and pressing need to assess the penetration of fiber in the local loop and gauge the development of broadband infrastructure."[137] The FCC recognized that hybrid architectures will likely become increasingly important in providing broadband services and are directly relevant to current criticisms by new entrants that the new architectures are systematically diminishing their ability to provide competing DSL service to end-user retail customers The FCC therefore found that there is a present federal regulatory need, at least for the near term, to collect such data to evaluate the effects of public policy decisions and to consider whether more market-oriented approaches are appropriate.[138] However, comment was

[135] The ARMIS Report 43-07 – Infrastructure Report, is required for 30 mandatory price cap incumbent ILECs.

[136] *Phase II Notice* at para 74.

[137] *See, Phase II Report and Order* and *Phase II Further Notice*

[138] *Phase II Report and Order* at para 175, nn 332-335

sought in the *Phase II Further Notice* on whether the additional broadband information should be collected as part of Form 477, rather than through ARMIS.[139]

In their *Joint Petition for Reconsideration*, BellSouth, SBC, and Verizon (collectively, Petitioners) support the FCC's gathering of information regarding broadband infrastructure. However, the Petitioners argue that this information should be reported on Form 477, rather than through ARMIS, citing the need to protect confidential, proprietary information and avoid duplicative and potentially inconsistent reporting requirements.[140] The Petitioners assert that by ordering data regarding broadband infrastructure to be reported through ARMIS, the FCC has effectively ordered certain Class A carriers to be the sole public reporters of broadband information This, they argue, is unequal regulatory treatment giving cable broadband providers and other competitors a regulatory advantage.[141] Finally, the Petitioners request that the FCC defer implementation of reporting the fiber and xDSL deployment information in ARMIS Report 43-07 until an order has been issued in the *Phase II Further Notice*

In response to the *Joint Petition for Reconsideration*, AT&T asserts that the Petitioners' argument, that fiber and xDSL deployment information reported in ARMIS Report 43-07 warrants confidential treatment, is misplaced. AT&T claims that the ARMIS data will be collected and reported only at the study area level and thus would not provide potential competitors with competitively sensitive information Nonetheless, AT&T notes that nothing precludes carriers from seeking confidential treatment of information provided in ARMIS reports It is the contention of AT&T that "the mere fact that information is reported on Form 477 does not guarantee confidential treatment of that information."[142] Carriers would have to demonstrate that their fiber and xDSL deployment data fall within the FCC's confidentiality rules whether reported on Form 477 or in ARMIS Report 43-07.[143]

AT&T also argues that shifting the reporting of fiber and xDSL deployment to Form 477 would impose new burdens on all other LECs that meet the Form 477 reporting threshold.[144] AT&T notes that only the largest ILECs are required to submit ARMIS 43-07 Reports, but all LECs that serve 10,000 or more voice-grade equivalent lines or 250 broadband lines would be subject to the new fiber and xDSL fiber requirements if those reporting requirements are shifted from ARMIS 43-07 Reports to Form 477.[145] AT&T asserts that the *Phase II Report and Order* concluded clear benefits to requiring the largest monopoly ILECs to report data relating to fiber and xDSL investment, but no such showing has been made that imposing requirements and costs

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[139] *Phase II Further Notice* at para 211

[140] *Joint Petition for Reconsideration* at 10.

[141] *See*, Joint Comments of BellSouth, SBC, Verizon, Qwest, Frontier, and CBT, filed in response to the *Phase II Further Notice* at 11

[142] *AT&T Opposition* at 10

[143] *Id*

[144] *See, AT&T Opposition*

[145] *Id* at 11

to the broader universe of LECs would produce any measurable benefit.[146] While requiring a larger universe of carriers to report fiber and DSL deployment would have significant benefits, especially in an environment in which the ILECs are seeking major regulatory reforms based on claims about their fiber and DSL deployment incentives and activities, AT&T argues that requiring this information to be produced through Form 477 would impose unnecessary costs upon competitive LECs.[147]

In summary, the carriers argue that the fiber and xDSL deployment data should be reported in Form 477 because it is confidential and proprietary information and will avoid duplicative and potentially inconsistent reporting requirements. The reporting of data in ARMIS reports does not preclude carriers from seeking confidential treatment of the data. On the other hand, the reporting of data in Form 477 does not automatically guarantee that the data will be held confidential Whether reported in ARMIS Report 43-07 or Form 477, carriers will be required to show that fiber and xDSL deployment data fall within the FCC's confidentiality rules For this reason, the Commission should deny the *Joint Petition for Reconsideration* and require the reporting of broadband infrastructure data in ARMIS Report 43-07 as set forth in the *Phase II Report and Order* Nonetheless, the reporting of broadband infrastructure data should continue to be evaluated as to whether the data collection should be expanded to a larger universe of carriers.

C Dominant Vs. Non-Dominant Carriers

Issue: Should the FCC agree with the "Dominant vs. Non-Dominant" argument of SBC in its Petition for Reconsideration?

Recommendation: No. SBC proposed that only dominant ILECs be subject to the Commission's accounting regulation. Approval of the limited definition of an ILEC, as proposed by SBC, would provide incumbent LECs with an inappropriate opportunity to avoid the statutory and regulatory obligations of ILECs by transferring a discrete service to a successor or assignee, and should be denied.

In its separate Petition for Reconsideration, SBC Communications Inc. asked the FCC to clarify that the amendment adopted to rule 32.11 of its accounting and reporting rules apply only to ILECs, as narrowly defined in 47 U.S.C. sections 251(h)(1)(A) or 251(h)(2)(B)(i), rather than to all ILECS as generally defined in section 251(h).[148] SBC argues that the fact that a carrier meets the general definition in section 251(h) does not consider whether the carrier is "dominant" in the markets in which it operates.[149]

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[146] *Id*

[147] *Id* at 3

[148] *See, SBC Reconsideration*

[149] *Id* at 2

Section 251(h) states.

(h) Definition of Incumbent Local Exchange Carrier---

(1) Definition. —For purposes of this section, the term "incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that---

(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and **(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b);**[150] or

(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

(2) Treatment of Comparable Carriers as Incumbents.---The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of this section if---

(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

SBC argues that section 32.11, which describes how companies will be classified for purposes of reporting, should apply only to those ILECS that are dominant in their markets, and that incumbency should be the basis for determining dominance for this purpose. The basis for this argument stems from a line of dicta in the FCC's *Phase II Report and Order* indicating that the accounting rules were currently applied only to incumbent LECs, "because they are the dominant carriers in their markets."[151] This appears to be a late-filed initial comment on the part of SBC. The *Phase II Notice*, at paragraph 44, specifically asked for comment on, "whether section 32.11 should be amended so that its requirements explicitly pertain only to incumbent LECs, as defined in section 251(h) of the Communications Act, and any other companies that the Commission designates by order." The FCC's *Phase II Report and Order* indicates that no comments were filed related to this proposal.

In support of its proposal SBC provides an example from the *Non-Accounting Safeguards Order* where the Commission held that a BOC could not avoid its network unbundling

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[150] The highlighted sections are those portions of the ILEC definition, found at 47 U.S.C § 251(h), that SBC asserts should be used to determine ILECs subject to the reporting requirements of rule 32.11

[151] *Phase II Report and Order* at para. 126

obligations by transferring a network element to a section 272 affiliate, noting that the section 272 affiliate would be deemed an ILEC under section 251(h) as a successor or assign of the BOC However, this argument seems to confirm the wisdom of the FCC's action in using the broad, more general definition.

Approval of the limited definition of an ILEC, as proposed by SBC, would provide incumbent LECs with an inappropriate opportunity to avoid the statutory and regulatory obligations of ILECs by transferring discrete service to a success or assign, and should be denied.

APPENDIX A

Members of the Federal-State Joint Conference on Accounting Issues

The Honorable Kevin J. Martin, FCC Commissioner, Chair of Joint Conference

The Honorable Michael J. Copps, FCC Commissioner

The Honorable Diane Munns, Chair, Iowa Utilities Board, State Chair of Joint Conference

The Honorable Nancy Brockway, Commissioner, New Hampshire Public Utilities Commission

The Honorable Terry Deason, Commissioner, Florida Public Service Commission

The Honorable Rebecca A. Klein, Chairman, Texas Public Utility Commission

The Honorable Loretta Lynch, Commissioner, California Public Utilities Commission

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Penny Baker, Assistant General Counsel, Iowa Utilities Board

Joseph Buckley, Utility Specialist 3, Ohio Public Utility Commission

Donna Nelson Geiger, Advisor to Chairman Klein, Texas Public Utility Commission

Chris Harris, Sr. Telecommunications Specialist, Division of Communications, Virginia State

Corporation Commission

Dianna Hathhorn, Accountant, Financial Analysis Division, Illinois Commerce Commission

Cayce Hinton, Assistant to Commissioner Deason, Florida Public Service Commission

Rich Kania, Director of Finance, Maine Public Utilities Commission

Pat Lee, Sr. Analyst, PSC, Florida Public Service Commission

Tom Long, Advisor to Commissioner Lynch, California Public Utilities Commission

ChristiAne Mason, Assistant Director, Telecommunications Division, New Hampshire Public Utility Commission

Joe Wiedman, Legal Intern, California Public Utilities Commission

Separate Statement of Commissioner Kevin J. Martin

Re Federal-State Joint Conference on Accounting Issues, WC Docket 02-269, Recommendation Concerning Suspended Items, Outstanding Petitions for Reconsiderations, and Proposed Modifications to the Part 32 Accounting Rules

Today, the Federal-State Joint Conference on Accounting submits a series of recommendations to the Commission and requests that the Commission ultimately modify its accounting rules. I would like to commend my state and Federal colleagues for their commitment to resolving regulatory accounting issues and to thank them for their hard work in developing these recommendations. Telecommunications accounting issues are difficult and complex. My colleagues on the Joint Conference brought a wealth of experience and a thoughtful approach to dealing with these issues, and I believe the Commission and the public have benefited tremendously from their contributions and hard work. The recommendations of the Federal-State Joint Conference provide a critical starting point for evaluating needed changes to the Commission's accounting rules

I write separately, however, to note that I continue to have some concerns about a few aspects of the recommendations of the Joint Conference I agree that these critical issues should be addressed, but am not as sure that the information available at this time indicates that the benefits outweigh the costs

I have some concerns about the recommendations pertaining to separate affiliates. For example, the Joint Conference recommends that, after the statutory sunset of the section 272 separate affiliate requirements, Bell Operating Companies (BOCs) should be required to maintain their in-region interLATA telecommunications service operations in a separate affiliate (with related accounting treatment) The Commission allowed the section 272 separate affiliate requirements to sunset in New York and Texas.[1]

The Joint Conference also recommends extending the affiliate transactions rules to apply to transactions between two regulated incumbent local exchange carriers (LECs). The Commission has never applied the affiliate transactions rules to these types of transactions [2] Several state commissions have raised valid concerns about the risk of anticompetitive conduct for these types of transactions. Based on the information available to the Joint Conference at this time,

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[1] *See* Public Notice, *Section 272 Sunsets For Verizon in New York State By Operation of Law on December 23, 2002 Pursuant to Section 272(f)(1)*, 17 FCC 26864 (2002), Public Notice, *Section 272 Sunsets For SBC in the State of Texas By Operation of Law on June 30, 2003 Pursuant to Section 272(f)(1)*, 18 FCC Rcd 13566 (2003); *see also Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, Further Notice of Proposed Rulemaking, 18 FCC Rcd 10914 (2003)

[2] *See Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539, para 107 (1996) (*Accounting Safeguards Order*) (subsequent history omitted).

however, it is not clear to me that the benefits of extending the affiliate transactions rules into this area outweigh the costs [3]

Despite these concerns, I believe it is extremely important that a forum be developed for notifying the Commission of accounting-related concerns and for identifying issues of concern to the states In this regard, the Joint Conference on Accounting has been extremely successful at facilitating state commission input into the Commission's decision-making process for accounting issues and for renewing and beginning to formalize a dialogue on the broader issues related to accounting

I support the Joint Conference recommendation for the Commission to initiate a Notice of Proposed Rulemaking seeking comment on the Joint Conference proposals. I look forward to continuing to work on these recommendations of the Joint Conference, and to receiving additional feedback from our state colleagues and others as we work to resolve these issues

[3] Similarly, I have some concerns about the recommendation to eliminate the central services organization exemption to the affiliate transactions rules, which the Commission adopted as part of the post-1996 Act rulemaking on accounting issues In the 1996 rulemaking, the Commission found that the central services organization exemption would benefit consumers by allowing incumbent LECs to take advantage of economies of scale and scope *See Accounting Safeguards Order* at para 148 (explaining the basis for the central services organization exemption) Based on the information available at this time, I question whether it is necessary to eliminate the exemption for central services organizations

SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re *Federal-State Joint Conference on Accounting Issues* (WC Docket No 02-269), Recommendation

One year ago, I expressed enthusiasm when the Joint Conference on Accounting was first convened In light of the accounting depredations that have haunted the telecommunications industry and the economy as a whole, I believed then—and believe now—that review and attention from both state and federal authorities is absolutely essential

Today, the Joint Conference offers a Recommendation that is a roadmap. It provides the Commission with a set of directions that address where and how it should head next in its accounting review. The Commission now must move swiftly to convert this Recommendation into a Notice of Proposed Rulemaking.

Through participation in this group, it has become clear to me that it is vitally important that the Commission ensure that the States have the accounting information they need to do their jobs Both the States and the Commission use reported data to develop an understanding of the plant, revenue and expenses of carriers and to enable comparisons among companies and over time. States also use it to develop prices for network elements, develop prices for resold services and conduct ratemaking proceedings. In short, if the Commission's periodic streamlining efforts strip the States of the uniform accounting data they need, they will be unable to carry out their statutory responsibilities

I regret that this fact was not as lucid to the Commission as it should have been when it embarked on the *Phase III Further Notice of Proposed Rulemaking*. At the time, the Commission suggested that we should only collect accounting information for which there is a federal purpose, notwithstanding any state need for the data Yet we have entered an era when more information—not less—is necessary to ensure that consumers are confident and investors secure We have a duty to ensure that the required system of accounts provides both state and federal regulators with the information they need to discharge their required tasks.

To this end, I am heartened by the approach taken in the Joint Conference Recommendation. The Recommendation specifically rejects the federal purpose standard and approaches its review under the broad charge of the Order convening the Joint Conference This mandate directs the Joint Conference to evaluate accounting requirements that both state and federal regulators need and to further the development of improved regulatory accounting and related requirements. I believe the approach taken in the Recommendation is the right way to go and the right thing to do.

Although the progress we make today is good news, there is *much more work to be done*. This Recommendation addresses only a narrow subset of the mandate We

have more fundamental challenges ahead as we work to live up to our charge to ensure that data filed by carriers are adequate, truthful and thorough

I believe the Joint Conference should move next to assess broader issues that impact regulatory accounting and reporting reliability I hope we can start by rigorously reviewing the scope of the authority granted to the Commission by Congress. In particular, I would like the Joint Conference to consider how use of the Commission's authority to inquire into the business management of carriers under Section 218 might have helped us to identify recent corporate governance problems ranging from capacity swaps to tactics to circumvent access charges The Commission also has specific requirements that carriers must comply with concerning continuing property records. I hope we can take a hard look at how the Commission can undertake regular continuing property record audits to ensure that carriers maintain equipment in compliance with Commission rules and verify that property is recorded in proper accounts Finally, I hope the Joint Conference can serve as a vehicle for jumpstarting discussion with other agencies at the state and federal level with interest in the soundness of regulatory accounting and reporting requirements Such discussion could help inform the recommendations of the Joint Conference to the Commission

I commend my state and federal colleagues on the Joint Conference for their extraordinary effort I commend them for their commitment to thinking through the thorny issues of our accounts, subaccounts, separate affiliate rules and reporting requirements This group tackled issues as complex as they come. They are devoted to ensuring we craft an accounting regime that will best serve the public interest We all benefit from their contributions and hard work I also wish to commend the leadership of our Chairman, FCC Commissioner Martin. Commissioner Martin has encouraged the Joint Conference to act expeditiously on the specific accounting rules before us and also to look more broadly at what needs to be done so that our accounting rules are up to the needs and the high standards of corporate governance that the American people have a right to expect in light of events over the past few years